

CHAPTER 6 - INSPECTION AND REGULATION OF FACTORIES, MINES, WORKSHOPS AND OTHER INDUSTRIES

ARTICLE 17. APPAREL INDUSTRY

34:6-144. Legislative findings and declarations

The Legislature finds and declares that:

- (a) There is growing concern over the increasing number of people working for employers in certain segments of the apparel industry under conditions which may violate State laws and regulations concerning wages and hours, child labor, unemployment and temporary disability insurance, and workers' compensation and the payment of payroll taxes;
- (b) Persons working under these unlawful sweatshop conditions are being exploited daily;
- (c) It is the sense of this Legislature that this exploitation of garment workers must be eliminated; and
- (d) Therefore, it is necessary and proper for the Legislature to create a special task force to enforce the State's labor laws in the apparel industry and to establish a registration system for employers in that industry.

34:6-145. Definitions

As used in this act:

- (a) "Apparel industry" means the making, cutting, sewing, finishing, assembling, pressing or otherwise producing of apparel, designed or intended to be worn by any individual and sold or offered for sale for that purpose, but does not include cleaning, pressing or tailoring services performed upon apparel sold or offered for sale at retail;
- (b) "Commissioner" means the Commissioner of Labor;
- (c) "Contractor" means any person who contracts to perform in this State the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. "Contractor" shall include, but not be limited to, a subcontractor, jobber or wholesaler, but shall not include a production employee employed for wages who does not employ others;
- (d) "Department" means the State Department of Labor;
- (e) "Manufacturer" means any person who contracts with a contractor to perform in this State the cutting, sewing, finishing, assembling, pressing or producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose, or who cuts, sews, finishes, assembles, presses or otherwise produces in this State any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. "Manufacturer" shall not include a production employee employed for wages who does not employ others;
- (f) "Production employee" means any person who is employed by a contractor or manufacturer directly to perform the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose;
- (g) "Apparel industry unit" means the Special Task Force on the Apparel Industry created by section 4 of this act and reestablished as the apparel industry unit by this 1991 amendatory and supplementary act.

34:6-146. Registration of manufacturers or contractors; certificate; fees

- (a) No manufacturer or contractor shall engage in the apparel industry in this State unless the manufacturer or contractor is registered as a manufacturer or contractor with the department, in writing, on a form provided by the commissioner. That form shall contain the following information: whether the manufacturer or contractor is a sole proprietorship, partnership, or corporation; the manufacturer's or contractor's name and principal business address in the State; the name and address of each person with a financial interest in the manufacturer's or contractor's business and the amount of that interest, except that if the manufacturer or contractor is a publicly-traded corporation, only the names

and addresses of the corporation officers shall be required; the manufacturer's or contractor's tax identification number; and, if the registrant is a contractor, whether that contractor subcontracts the cutting or sewing of apparel or sections or components thereof. Divisions, subsidiary corporations, or related companies may, at the option of the manufacturer or contractor, be named and included under one omnibus registration.

- (b) The commissioner shall issue pursuant to the provisions of this act, a certificate of registration upon receipt of a manufacturer's or contractor's completed registration form and documentation that the manufacturer or contractor has paid any surety bond required pursuant to subsection h. of section 7 of P.L.1987, c. 458 (C. 34:6-150) and provides workers' compensation coverage for the manufacturer's or contractor's production employees working in this State. The initial fee for each registration shall be \$300. Each subsequent annual registration fee shall be \$300. The commissioner may prorate the initial annual registration fee if the certificate of registration is for a period of less than 12 months. Registrations shall be renewed on or before January 15th of each year, and all fees shall be payable to the Division of Workplace Standards. With respect to manufacturers or contractors operating prior to or on the effective date of this act, the initial registration shall be filed on or before the first day of the sixth month following the effective date of this act and shall be effective until the following January 15th. With respect to new manufacturers or contractors, the initial registration shall be filed upon the commencement of manufacturing or contracting in the apparel industry and shall be effective until the following January 15th. The commissioner may, by order, compel registration pursuant to this subsection.

34:6-147. Special task force reestablished as apparel industry unit

The commissioner shall establish, within 120 days of the effective date of this act, a Special Task Force on the Apparel Industry to enforce State labor laws affecting the employment of production employees in the apparel industry and to exercise the special duties and powers set forth in sections 5 (N.J.S.A. 34:6-148) and 6 (N.J.S.A. 34:6-149) of this act. The special task force shall include personnel from the department who shall be charged with ensuring compliance with the State's wage and hour, unemployment compensation, temporary disability, workers' compensation, and industrial homework laws. Upon the effective date of this 1991 amendatory and supplementary act (N.J.S.A. 34:6-145 et seq.), the special task force shall be reestablished as the apparel industry unit.

34:6-148. Duties of apparel industry unit

The apparel industry unit is charged with the following duties:

- (a) To inspect manufacturers and contractors, with respect to their production employees, for compliance with the registration requirements of section 3 (N.J.S.A. 34:6-146) of this act;
- (b) To inspect manufacturers and contractors, with respect to their production employees, for compliance with other labor and payroll tax laws of this State that affect the employment of production employees; and
- (c) To ensure, with respect to their production employees, compliance by manufacturers and contractors with the orders of, and assessments of civil penalties by, the commissioner pursuant to this act and other labor laws of this State applicable to the employment of production employees.

34:6-149. Powers of apparel industry unit

The apparel industry unit shall have the following powers:

- (a) To investigate and conduct inspections at locations where an apparel industry manufacturer or contractor is operating to ensure compliance with this act;
- (b) To inspect books, records and premises of manufacturers and contractors, with respect to their production employees, to determine compliance with the State's labor laws, including but not limited to, laws concerning wages, overtime compensation, unemployment compensation and temporary disability insurance, workers' compensation coverage, child labor, and industrial homework laws, and, if the apparel industry unit determines that a manufacturer or contractor has violated a provision of any of those laws with respect to its production employees, to assess and collect, on behalf of the commissioner, any administrative penalty authorized by law. If the violation is of a provision of a labor law for which the assessment and collection of an administrative penalty is not otherwise authorized, the apparel industry unit is hereby authorized to assess and collect an administrative penalty of not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for each subsequent violation, specified in a schedule of penalties promulgated by rule or regulation of the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14-B1 et seq.). No administrative penalty shall be levied pursuant to this subsection unless the commissioner or his

designee provides the violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing within 15 days following the receipt of the notice. If a hearing is requested, the commissioner, or his designee, may issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon the expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:5-81 et seq.). Any penalty imposed under this subsection shall be paid to the Division of Workplace Standards and applied to enforcement and administrative costs of the division; and

- (c) To serve as the designee of the commissioner for the purpose of taking any action authorized by this act necessary to implement its provisions.

34:6-150. Violations; penalties

- (a) Any manufacturer or contractor who has failed to comply with the registration requirements of section 3 (N.J.S.A. 34:6-146) of this act shall be deemed to have violated this act.
- (b) Any manufacturer or contractor who has failed to comply, for the second time within any three-year period, with an order issued by the commissioner to comply with the registration requirements of section 3 (N.J.S.A. 34:6-146) of this act shall be deemed to have violated this act.
- (c) Any manufacturer or contractor who contracts for the performance of any apparel industry service, as identified in subsection a. of section 2 (N.J.S.A. 34:6-145) of this act, with any other manufacturer or contractor whom the manufacturer or contractor knows does not hold a valid registration shall be deemed to have violated this act. A contractor or manufacturer who knowingly violates this subsection c. within three years after having been found liable for a civil or administrative penalty for violating this subsection c. is guilty of a crime of the fourth degree.
- (d) No manufacturer or contractor shall perform services or hold himself out as being able to perform services as a registered manufacturer or contractor unless he holds a valid registration pursuant to this act. A contractor or manufacturer who knowingly violates this subsection d. within three years after having been found liable for a civil or administrative penalty for violating this subsection d. is guilty of a crime of the fourth degree.
- (e) If the commissioner or his designee determines that any manufacturer or contractor commits a violation as provided in subsection a., b., or c. of this section, or violates subsection d. of this section, the commissioner or his designee may impose a civil penalty, and such penalty shall be made with due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, upon the manufacturer or contractor of not less than \$1,000 and not more than \$2,000 for an initial violation and not less than \$2,000 and not more than \$4,000 for each subsequent violation, and, as an alternative or in addition to the civil penalty, the commissioner or his designee is authorized to assess and collect an administrative penalty, of not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for each subsequent violation, specified in a schedule of penalties to be promulgated by rule or regulation of the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14-B1 et seq.). No administrative penalty shall be levied pursuant to this subsection unless the commissioner or his designee provides the violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing within 15 days following the receipt of the notice. If a hearing is requested, the commissioner, or his designee, may issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon the expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:5-81 et seq.). The civil or administrative penalties shall be paid to the Division of Workplace Standards and applied to enforcement and administrative costs of the division, except as provided in subsection b. of section 11 (N.J.S.A. 34:6-157) of this act. Any civil penalty imposed pursuant to this section shall be enforceable in a summary manner pursuant to Rule 4:70 of the Rules Governing the Courts of the State of New Jersey.
- (f) If any manufacturer or contractor fails to comply with an order by the commissioner to register or renew registration, the commissioner may seek and obtain in a summary action in Superior Court an injunction prohibiting such unlawful activity.
- (g) An intentional failure to comply with the registration requirements of section 3 (N.J.S.A. 34:6-146) of this act shall be a crime of the fourth degree.

(h) The commissioner or his designee may, after a hearing thereon, and after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, require as a condition of continued registration, the payment of a surety bond or may revoke, by order, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of:

(1) A second violation of the same provision of this act within any three-year period; or

(2) A second violation within any three-year period of the same provision of any other labor law applicable to the employment of production employees.

The surety bond shall be payable to the State and shall be for the benefit of production employees damaged by any failure of the manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of law. The surety bond shall be in the sum and form that the commissioner deems necessary for the protection of the production employees, but shall not exceed \$2,500 per production employee.

(i) Any manufacturer or contractor who contracts, for the second time within any three-year period, for the performance of any apparel industry service with any other manufacturer or contractor whom the manufacturer or contractor knows has failed to comply with the registration requirements of section 3 (N.J.S.A. 34:6-146) of this act, shall, if the other manufacturer or contractor has failed to pay any civil penalty assessed under subsection e. of this section, be liable to pay a civil penalty equal to the civil penalty that the other manufacturer or contractor has been assessed.

(j) Nothing herein shall affect either the authority of the department to enforce the industrial homework laws of this State or the right of any manufacturer to possess or repossess any apparel, or sections or components of apparel, that are located at any contractor with whom it has contracted.

34:6-151. Subsequent violations; confiscation of apparel and equipment; notice and hearing; appeal of final confiscation order; title to and disposition of confiscated goods

(a) The commissioner may, in addition to seeking civil, administrative, or criminal penalties pursuant to P.L.1987, c. 458 (C. 34:6-144 et seq.), order the apparel industry unit to confiscate any partially or completely assembled articles of apparel and any equipment used in the assembly of apparel from any manufacturer or contractor who is violating any provision of P.L.1987, c. 458 (C. 34:6-144 et seq.) and has previously been found liable for a civil or administrative penalty for two or more separate violations of P.L.1987, c. 458 (C. 34:6-144 et seq.) during the immediately preceding three-year period. All items confiscated shall be placed in the custody of the apparel industry unit until the confiscation order becomes final and until the final resolution of any appeal of the final confiscation order pursuant to subsection b. of this section.

(b) Prior to the time that the confiscation order becomes final, the commissioner or his designee shall provide the manufacturer or contractor with notification of the violation and confiscation by certified mail and an opportunity to request from the commissioner or his designee, by certified mail, a hearing before the commissioner or his designee within 15 days following receipt of the notice. If a hearing is requested, the commissioner or his designee shall hold the hearing within 10 days following receipt of the request and may issue a final confiscation order upon such hearing and a finding that a violation has occurred. If a hearing is not requested, the commissioner or his designee shall issue a final confiscation order upon the expiration of the 15-day period. The manufacturer or contractor may appeal the final confiscation order to the Appellate Division of the Superior Court within 30 days following the issuing of the final confiscation order. Upon issuance of a final confiscation order or, if an appeal is made to the Appellate Division, upon the final resolution of that appeal, title to the confiscated goods shall vest in the State, and the apparel industry unit shall dispose of them pursuant to regulations adopted by the commissioner.

34:6-152. List of violators; availability

The commissioner or his designee shall make public a list of all manufacturers and contractors which have been found guilty of violations of P.L.1987, c. 458 (C. 34:6-144 et seq.) or any other act for which a manufacturer or contractor may, pursuant to P.L.1987, c. 458 (C. 34:6-144 et seq.), be subject to a revocation of registration or confiscation of items of apparel or equipment for a subsequent violation. The commissioner or his designee shall update that public list in a timely manner. The commissioner shall make the list and any updates of the list available upon the request to any requesting manufacturer, contractor, or organization representing manufacturers or contractors.

34:6-153. Records of production employees for preceding three years; information required

Each manufacturer and contractor shall keep accurate records regarding all of its production employees during the preceding three years and make those records available to the apparel industry unit upon request. The records shall include:

- (a) The name and address of each production employee and the age of each production employee who is a minor;
- (b) The number of hours of work and the time of day that work begins and ends for each production employee;
- (c) The wages, wage rates, and piece rates paid during each payroll period; and
- (d) Contract worksheets indicating the price per unit agreed upon between manufacturer and contractor.

34:6-154. Confidentiality of information

Information obtained or collected by the department pursuant to this act shall be exempt from P.L.1963, c. 73 (C.47:1A-1 et seq.), and shall be used exclusively by the apparel industry unit in effectuating the purposes of this act.

34:6-155. Report of special task force

Two years after the effective date of this act the special task force shall issue a report on its activities. This report shall be delivered to the labor committees and appropriations committees of the Legislature.

34:6-156. Training of apparel industry unit

The apparel industry unit shall receive training to be provided by the State in each of the areas of the State's labor laws and other applicable State laws necessary to carry out the duties and powers of section 5 (N.J.S.A. 34:6-148) and section 6 (N.J.S.A. 34:6-149) of this act.

34:6-157. Appropriation; disposition of fees and penalties

- (a) There is appropriated from the General Fund \$350,000.00 to the Division of Workplace Standards in the Department of Labor to effectuate the purposes of this act.
- (b) Receipts from registration fees and penalties collected pursuant to the provisions of this act, up to \$350,000.00, shall be deposited in the General Fund. Receipts in excess of that amount are appropriated to the division to effectuate the purposes of this act.

CHAPTER 210 - APPAREL INDUSTRY REGISTRATION

SUBCHAPTER 1. GENERAL PROVISION

12:210-1.1 Purpose and Scope

- (a) The purpose of this subchapter is to establish a registration system which requires apparel industry manufacturers and contractors to register with the Department as a condition of doing business in the State.
- (b) This subchapter is applicable to all apparel industry manufacturers and contractors who conduct business within the State of New Jersey.

12:210-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Apparel industry" means the making, cutting, sewing, finishing, assembling, pressing or otherwise producing of apparel, designed or intended to be worn by any individual and sold or offered for sale for that purpose, but does not include cleaning, pressing or tailoring services performed upon apparel sold or offered for sale at retail.

"Commissioner" means the Commissioner of Labor.

"Contractor" means any person who contracts to perform in this State the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. "Contractor" shall include, but not be limited to, a subcontractor, jobber or wholesaler, but shall not include a production employee employed for wages who does not employ others.

"Department" means the State Department of Labor.

"Manufacturer" means any person who contracts with a contractor to perform in this State the cutting, sewing, finishing, assembling, pressing or producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose, or who cuts, sews, finishes, assembles, presses or otherwise produces in this State any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. "Manufacturer" shall not include a production employee employed for wages who does not employ others.

"Production employee" means any person who is employed by a contractor or manufacturer directly to perform the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose.

12:210-1.3 Registration

- (a) Prior to engaging in the apparel industry business in this State, a manufacturer or contractor shall register with the Department by completing a form prescribed by the Commissioner.
- (b) The registration form shall contain, but not be limited to, the following information for all manufacturers and contractors.
 - 1. The structure of the business, that is, sole proprietorship, partnership or corporation;
 - 2. The manufacturer's or contractor's name and principal business address in the State; and the name and address of each person with a financial interest in the manufacturer's or contractor's business and the amount of that interest, except that if the manufacturer or contractor is a publicly traded corporation, only the names and addresses of the corporate officers shall be required;
 - 3. The tax identification number;
 - 4. If the registrant is a contractor the registrant must list all manufacturers to whom the registrant will be subcontracting this work. The list shall contain the name, address and tax identification (I.D.) numbers of the manufacturers and/or subcontractors; and

5. A certified list of all violations of any of New Jersey's labor laws or regulations for the period of three years prior to this current application must accompany the registration form.
- (c) Divisions, subsidiary corporations or related companies may be named and included under one omnibus registration.
- (d) The Commissioner shall issue a certificate of registration upon receipt of the following:
1. A manufacturer's or contractor's completed registration form;
 2. Documentation which is suitable to the Commissioner or his or her authorized representative that the manufacturer or contractor has paid any surety bond required pursuant to N.J.S.A. 34:6-150;
 3. Documentation that the registrant has workers' compensation coverage for his or her production employees working in the State; and
 4. Payment of the \$300.00 registration fee made payable to the Commissioner of Labor, Apparel Registration.
- (e) New manufacturers or contractors shall file the initial registration upon the commencement of business in the apparel industry in this State. The registration shall be valid until January 15 of the following year.
- (f) The certificate of registration shall be renewed by January 15 of each year.
- (g) The Commissioner may prorate the initial annual registration fee if the certificate of registration is for a period of less than 12 months. The prorated registration fees are as follows:
1. Six months to 12 months -- \$300.00;
 2. Three months to six months -- \$150.00; and
 3. Up to three months -- \$75.00.

12:210-1.4 Apparel Industry Unit

- (a) There is established an Apparel Industry unit, comprised of Departmental personnel, to enforce all State labor laws which affect the apparel industry.
- (b) The Apparel Industry Unit has the power to:
1. Inspect manufacturers and contractors, with respect to their production employees, for compliance with:
 - i. The registration requirements of N.J.A.C. 12:210-1.3;
 - ii. State wage and hour, unemployment compensation, temporary disability, workers' compensation, child labor and industrial homework laws; and
 - iii. All orders and assessments of civil penalties by the Commissioner;
 2. Investigate and conduct inspections of a manufacturers' or contractors' locations, books, records and premises to ensure compliance with this subchapter; and
 3. Take any action necessary to implement the provisions of this subchapter.
- (c) The Apparel Industry Unit members shall receive special training with regard to the State labor laws to enable them to enforce the provisions of this subchapter.

12:210-1.5 Violations; penalties

- (a) The following acts constitute violations of this subchapter:
1. Failure to comply with the registration requirements pursuant to N.J.A.C.12:210-1.3;

2. Performing services or representing oneself as being registered to perform apparel industry services without holding a valid registration;
 3. Contracting for the performance of an apparel industry service with a manufacturer or contractor who is known to have failed to register, renew its registration, or whose registration has been revoked; and
 4. Failure to comply, for the second time in three years, with an order of the Commissioner concerning registration compliance.
- (b) The following civil penalties may be imposed by the Commissioner for committing the violations in (a)1 through 4 above.
1. A fine of not less than \$1,000 and not more than \$2,000 for an initial violation;
 2. A fine of not less than \$2,000 and not more than \$4,000 for each subsequent violation.
- (c) Penalties shall be payable to the Commissioner of Labor, Apparel Registration.
- (d) An intentional failure to comply with the registration requirements shall be a crime of the fourth degree.
- (e) If a manufacturer or contractor fails to comply with an order by the Commissioner to register or renew registration, the Commissioner may obtain an injunction prohibiting the manufacturer or contractor from conducting business.
- (f) If a manufacturer or contractor is found guilty, after a hearing held pursuant to the Administrative Procedure Act, N.J.S.A. 51:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, of two violations of the same provision of this subchapter in three years, the Commissioner may suspend the registration of any such manufacturer or contractor for a period ranging from 30 days to one year.
- (g) Any manufacturer or contractor who contracts, for the second time in three years, with a manufacturer or contractor who is known to have failed to comply with the registration requirements in N.J.A.C. 12:210-1.3, shall be liable to pay any civil penalty assessed against the known violator, if such violator has not paid the penalty.
- (h) As an alternative or in addition to any other sanctions provided for in N.J.S.A. 34:6-149(e) when the Commissioner of Labor finds that an employer has violated the Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:
1. First violation-not less than \$250.00 and not more than \$500.00;
 2. Second and subsequent violations not less than \$500.00 nor more than \$1,000.
- (i) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 working days following the receipt of the notice.
1. The notice shall become the Final Order upon the expiration of the 15-working day period following receipt of the notice if a hearing is not requested.

12:210-1.6 Records

- (a) Each manufacturer and contractor shall keep accurate records regarding all of its production employees during the preceding three years and make those records available to the apparel industry unit upon request. The records shall include:
1. The name and address of each production employee and the age of each production employee who is a minor;
 2. The number of hours of work and the time of day that work begins and ends for each production employee;
 3. The wages, wage rates, and piece rates paid during each payroll period;

4. The number of pieces per hour when piece rate is paid; and
5. Contract worksheets indicating the price per unit agreed between manufacturer and contractor.

12:210-1.7 Surety bond

- (a) The Commissioner or his or her duly authorized designee may, after a hearing thereon, and after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, require as a condition of continued registration the payment of a surety bond or may revoke, by order, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of:
 1. A second violation of the same provision of the Apparel Registration Act within any three-year period; or
 2. A second violation within any three-year period of the same provision of any other labor law applicable to employment of production employees.
- (b) Each week in which a violation occurs constitutes a separate violation.
- (c) The surety shall be made payable to the State and shall be for the benefit of production employees damaged by any failure to the manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of law. The surety bond shall be in the sum and form that the Commissioner deems necessary for the protection of the production employees, but shall not exceed \$2,500 per production employee.
- (d) Surety may be held for a period of two years from the date the employer's operation ceases.

12:210-1.8 Hearings

- (a) When the Commissioner assesses an administrative or civil penalty under N.J.A.C. 12:210-1.5 the employer shall have the right to a hearing under (b) below.
- (b) No administrative or civil penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 working days following the receipt of the notice. All hearings shall be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (c) The Commissioner shall make the final decision of the Department.
- (d) Appeals of the final decision of the Commissioner shall be made to the Appellate Division of the New Jersey Superior Court.
- (e) Recipients of an administrative and/or civil penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.
- (f) If the employer, or a designated representative of the employer, fails to appear at a requested hearing, the Commissioner or his or her designee may, for good cause shown, re-schedule a hearing.
- (g) If the Commissioner or his or her designee does not authorize such are-scheduled hearing, then the Commissioner shall issue a final agency determination effective upon the date set for the original hearing.
- (h) Payment of the penalty is due when a final agency determination is issued.
- (i) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

12:210-1.9 Confiscation of apparel and equipment

- (a) In addition to any penalty which may be assessed against an individual who is in violation of this chapter, the Commissioner may order the apparel industry unit to confiscate any partially or completely assembled articles of apparel and any equipment used in the assembly of apparel from any manufacturer or contractor who has been found to be:

1. In violation of this chapter; and
 2. Previously liable for a civil or administrative penalty for two or more separate violations of this chapter during the immediately preceding three-year period.
- (b) The Commissioner, through his or her designee, shall have the authority to enter the business premises of the manufacturer or contractor in order to label all items subject to confiscation in preparation for subsequent removal of the items therefrom.
- (c) All items labeled for confiscation shall be placed in the custody of the apparel industry unit until the confiscation order becomes final and until final resolution of any appeal of the final confiscation order.
- (d) Any individual who removes items labeled for confiscation without the Commissioner's approval shall be subject to prosecution for a disorderly persons offense and upon conviction fined not less than \$100.00 nor more than \$1,000 in addition to any other civil or administrative penalties under the Act.
- (e) Upon confiscation, the Commissioner or his or her designee shall provide the manufacturer or contractor with written notification by certified mail of:
1. The violation and confiscation; and
 2. The opportunity to request from the Commissioner, or his or her designee, a formal hearing within 15 days following receipt of the notice.
- (f) The Department may notify all parties which it has reason to believe have an interest in the ownership, shipment or sale of the items which are the subject of the confiscation order.
- (g) The Commissioner, or his or her designee, shall forward the request for formal hearing to the Office of Administrative Law for hearing. All hearings shall be held in accordance with the Apparel Industry Registration Act, N.J.S.A. 34:6-151; the Administrative Procedure Act, N.J.S.A. 52:14B et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (h) The Commissioner shall issue the final administrative determination regarding the confiscation order upon completion of the hearing.
- (i) If a hearing is not requested, the Commissioner, or his or her designee, shall issue a final confiscation order upon the expiration of the 15 day period.
- (j) The manufacturer or contractor may appeal the final confiscation order to the Appellate Division of the Superior Court within 30 days of the date of its issuance.
- (k) The manufacturer or contractor shall be notified of the location to which the confiscated items are removed.
- (l) Upon issuance of a final confiscation order or upon final resolution of an appeal therefrom, title to the items shall vest in the State.
- (m) Confiscated goods shall be disposed in the following manner:
1. The confiscated goods may be donated to a charity certified to do business in the State of New Jersey or to any public agency for use by agency clients provided that such goods will not enter the mainstream of commerce and shall not be offered for sale;
 2. The confiscated goods may be sold at public sale or auction;
 3. The confiscated goods may be donated to public agencies or school districts which conduct classes or training in apparel manufacturing, sewing or related areas; or
 4. The confiscated goods may be destroyed.

12:210-1.10 List of violations; availability

- (a) The Department's Division of Workplace Standards shall make public a list of all manufacturers and contractors who have been found to have violated any of the provisions of this chapter or any other act for which the manufacturer or contractor may be subject to revocation of registration or confiscation of apparel and equipment for a subsequent violation of this chapter.
- (b) The list shall be updated on a quarterly basis and shall be made available upon the request of:
 - 1. Any manufacturer or contractor who is engaged in the apparel industry; and
 - 2. Any organization which represents manufacturers or contractors who are engaged in the apparel industry.
- (c) Subsection (b) above does not limit requests for the release of information under the Right to Know Law, N.J.S.A. 47:1A-1 et seq.